

HUGHES & DORSEY

GERALD HUGHES (1911-1956)
MONTGOMERY DORSEY (1925-1979)
ALLAN R. PHIPPS
RAYMOND B. DANKS
EDWARD B. CLOSE, JR.
GEORGE C. GIBSON
RICHARD S. KITCHEN, SR.
THOMAS R. WALKER
H. ROBERT WALSH, JR.
WALTER L. PALMER
MICHAEL W. LILLIE

PETER L. DURANTE
OF COUNSEL

MYRA D. RAINEY
VIRGINIA ANNE HOUSUM
DAVID L. HONECK
ANNE LEWIS
ALLEN W. STAVES
BARRON R. MCCUNE, JR.
KURT A. HORTON

13218
RECORDATION NO. _____ Filed 1425

1600 FIRST OF DENVER PLAZA BUILDING
DENVER, COLORADO 80202
TELEPHONE 303 623-0196

AUG 7 1981 11 59 AM

INTERSTATE COMMERCE COMMISSION
July 30, 1981

Interstate Commerce Commission
Washington, D.C. 20423
Attention: Room 2303

Dear Sirs:

We represent The First National Bank of Denver. This letter is written, pursuant to 49 C.F.R. 1116, to transmit an original and two executed copies of a security agreement evidencing the mortgage of certain railroad locomotives.

The names and addresses of the parties to the transaction evidenced by the enclosed documents are as follows:

<u>Secured Party:</u>	The First National Bank of Denver 633 Seventeenth Street P. O. Box 5808 T.A. Denver, Colorado 80217 (303) 893-2211 Attn: Robert A. Reed
<u>Debtor and owner of security:</u>	Gary W. Flanders 11 Elm Street Denver, Colorado 80216

The equipment covered by the enclosed security agreement is as follows:

- 1 - 1000 HP General Motors EMD, NW2 Yard Switcher
Engine Serial Number - 691, Model Number - 12-567
Locomotive Number - 468
- 1 - 600 HP General Motors EMD, SW1 Yard Switcher
Engine Serial Number - 710, Model Number 6-567-U
Locomotive Number - 88

Interstate Commerce Commission
July 30, 1981
Page Two

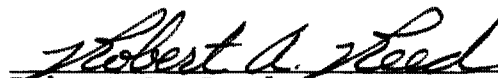
I was advised by phone by your office that this transmittal letter should be prepared and signed by myself as attorney for the Bank. Since 49 C.F.R. 1116.4(f) appears to require signing by an executive officer of one of the parties, I have asked Robert A. Reed, Vice President of the Bank, to sign this letter also. The original of the security agreement should be returned to Mr. Reed at the address indicated above.

Enclosed please find a check in the amount of \$50.00 for a recordation fee.

Very truly yours,



Michael W. Lillie



Robert A. Reed

MWL/smr
Enclosures

SECURITY AGREEMENT
(Equipment, Consumer Goods and Farm Products)

1. DEBTOR (name and address):

Gary W. Flanders
11 Elm Street
Colorado Springs, Colorado

2. BANK: THE FIRST NATIONAL BANK OF DENVER

621 Seventeenth Street
Denver, Colorado 80217

13218
RECORDATION NO. _____ Filed 1425

AUG 7 1981 11 20 AM

INTERSTATE COMMERCE COMMISSION

3. COLLATERAL: The following property and all additions and accessions thereto:

- 1 - 1000 HP General Motors EMD, NW2 Yard Switcher
Engine Serial Number - 691, Model Number - 12-567
Locomotive Number - 468
- 1 - 600 HP General Motors EMD, SW1 Yard Switcher
Engine Serial Number - 710, Model Number 6-567-U
Locomotive Number - 88

Located or to be located at:

- * NW2 Locomotive #468 located in Pueblo
- SW1 Locomotive #88 located in Colorado Springs

Primary use of Collateral:

☒ Business purposes

☐ Personal, family or household purposes

☐ Farming operations

If checked here ☒, the Collateral is being acquired with the proceeds of a loan from the Bank, which proceeds may be disbursed by the Bank directly to the seller of the Collateral.

- 4. OBLIGATIONS: (a) All obligations of Debtor to the Bank, direct or indirect, absolute or contingent, now existing or hereafter arising, including the performance and observance of any term or condition of this agreement, and (b) all expenditures made or incurred by the Bank to protect and maintain the Collateral and to enforce its rights under this agreement, as more fully set forth herein.
- 5. SECURITY INTEREST: Debtor hereby grants to the Bank a security interest in the Collateral. Proceeds of the Collateral are also covered but this shall not be construed to mean that the Bank consents to any sale of the Collateral. The security interest is given to secure the payment and performance of the Obligations.
- 6. WARRANTIES AND REPRESENTATIONS: Debtor warrants and represents to the Bank: (a) Debtor has, or forthwith will acquire, title to the Collateral free and clear of all liens, security interests and encumbrances; (b) no financing statement covering any of the Collateral is on file in any public office; (c) if Debtor is a corporation, its certificate or articles of incorporation and bylaws do not prohibit any term or condition of this agreement; (d) the execution and delivery of this agreement will not violate any law or agreement governing Debtor or to which Debtor is a party; (e) the Collateral will be used primarily for the purposes set forth in paragraph 3 above unless the Bank consents to another use, and (f) all other information and statements above are true and correct.
- 7. COVENANTS OF DEBTOR: Unless and until the Bank expressly agrees to another course of action: (a) the Collateral shall be kept at the location specified in paragraph 3 above. (b) Debtor shall not sell, transfer, lease, abandon or otherwise dispose of any of the Collateral or any interest therein. (c) Debtor shall keep the Collateral in good condition and free of liens, security interests and encumbrances (other than the security interest created by this agreement); shall promptly notify the Bank of any Event of Default, as defined in paragraph 8; shall not use the Collateral for hire or in violation of any applicable statute, ordinance or insurance policy; shall defend the Collateral against the claims and demands of all persons; shall pay promptly all taxes and assessments with respect to the Collateral, and shall not permit the Collateral to become a part of or to be affixed to any real or personal property without first making arrangements satisfactory to the Bank to protect the Bank's security interest. The Bank may inspect the Collateral at any time, wherever located. (d) Debtor shall keep the Collateral insured with companies acceptable to the Bank against such casualties and in such amounts as the Bank may require. If requested by the Bank all insurance policies shall be written for the benefit of Debtor and the Bank as their interests may appear, shall provide for 10 days' written notice to the Bank prior to cancellation and shall be deposited with the Bank. The Bank may act as attorney for Debtor in making, adjusting and settling claims under or cancelling such insurance and endorsing Debtor's name on any drafts relating thereto. The Bank may apply any proceeds of insurance toward payment of the Obligations, whether or not due, in any order of priority. (e) At its option the Bank may discharge taxes, liens, security interests and other encumbrances against the Collateral and may pay for the repair of any damage to the Collateral, the maintenance and preservation thereof and insurance thereon. Debtor shall reimburse the Bank on demand for any payments so made, plus interest thereon at the rate of 15% per year from the date of such payment. Any such payments by the Bank shall be a fixed indebtedness of Debtor to the Bank, secured by the Collateral. (f) Debtor shall from time to time execute financing statements and other documents in form satisfactory to the Bank (and pay the cost of filing or recording them in whatever public offices the Bank deems necessary) and perform such other acts as the Bank may request to perfect and maintain a valid security interest in the Collateral.
- 8. EVENTS OF DEFAULT: Debtor shall be in default under this agreement upon the happening of any of the following events or conditions ("Events of Default"): (a) default in the due payment, performance or observance of any of the Obligations; (b) any warranty, representation or statement of Debtor in this agreement, or otherwise made or furnished to the Bank by or on behalf of Debtor, proves to have been false in any material respect when made or furnished; (c) any event which results in the acceleration of the maturity of indebtedness of Debtor to the Bank or to any other person under any security or loan agreement, indenture, note or other undertaking; (d) loss, theft or destruction of or substantial

damage to any of the Collateral; or the seizure or taking thereof by any governmental or similar authority, or the issuance of a writ, order of attachment or garnishment with respect thereto; (e) death, insolvency (however expressed or indicated), termination of existence of, appointment of a receiver of any part of the property of, assignment for the benefits of creditors by, or the commencement of any proceeding under any bankruptcy, reorganization, arrangement, insolvency or other law relating to the relief of debtors by or against, Debtor or any guarantor or surety for Debtor under any of the Obligations; or (f) good faith belief by the Bank that the Obligations are inadequately secured or that the prospect of payment, performance or observance of any of the Obligations is impaired. If the security interest created by this agreement is given to secure the Obligations of a person other than Debtor, an additional Event of Default shall be the happening of any of the above events or conditions to, by or with respect to such other person.

9. REMEDIES: (a) Upon the occurrence of any Event of Default the Bank may without notice or demand declare any of the Obligations immediately due and payable and, this agreement in default, and thereafter the Bank shall have the remedies of a secured party under the Uniform Commercial Code as then in effect in Colorado, including without limitation the right to take possession of the Collateral and any proceeds thereof. To take possession the Bank may enter upon any premises and remove the Collateral or any proceeds therefrom. Debtor shall make the Collateral available to the Bank at a place to be designated by the Bank which is reasonably convenient for both parties. If notice is required by law, five days' prior written notice of the time and place of any public sale or of the time after which any private sale or any other intended disposition thereof is to be made shall be reasonable notice to Debtor. No such notice is necessary if the Collateral is perishable, threatens to decline speedily in value, or is of a type customarily sold on a recognized market. Proceeds of any sale or other disposition of the Collateral may be applied to the Obligations in any order of priority. (b) During the time that the Bank is in possession of the Collateral, and to the extent permitted by law, the Bank shall have the right to hold, use, operate, manage and control all or any part of the Collateral; to make all such repairs, replacements, alterations, and improvements to the Collateral as it may deem proper; and to demand, collect and retain all earnings, proceeds and other sums due or to become due with respect to the Collateral, accounting only for the net earnings arising from such use and charging against receipts from such use all other costs, expenses, charges, damage or loss by reason of such use. Notwithstanding the foregoing, the Bank shall also be entitled, without notice or demand and to the extent permitted by law, to have a receiver appointed to take charge of all or any part of the Collateral, exercising all of the rights specified in the immediately preceding sentence. (c) Debtor shall pay to the Bank all expenses (including reasonable attorneys' fees and legal expenses) of or incidental to retaking, holding, preparing for sale, selling and the like, and in otherwise enforcing any term or condition of this agreement. All such expenses shall be a fixed indebtedness of Debtor to the Bank, secured by the Collateral.
10. GENERAL: (a) No default shall be waived by the Bank except in writing and no waiver of any payment or other right under this agreement shall operate as a waiver of any other payment or right. (b) Without affecting any obligations of Debtor under this agreement the Bank without notice or demand may renew, extend or otherwise change the terms and conditions of any of the Obligations; take or release any other collateral as security for any of the Obligations, and add or release any guarantor, endorser, surety or other party to any of the Obligations. (c) Any consent, notice or other communication required or contemplated by this agreement shall be in writing. If intended for Debtor it shall be deemed given if mailed, postage prepaid, to Debtor at the address given on the first page of this agreement or at such other address given by notice as herein provided. If intended for the Bank it shall be deemed given only if actually received by the Bank. (d) If there is more than one Debtor, all of the terms and conditions of this agreement shall apply to each and any of them. (e) This agreement shall be construed under and governed by the laws of Colorado. (f) Unless the context otherwise requires, all terms used herein which are defined in the Uniform Commercial Code as in effect in Colorado shall have the meanings therein stated. (g) All of the rights of the Bank under this agreement shall be cumulative and shall inure to the benefit of its successors and assigns. All obligations of Debtor hereunder shall be binding upon the heirs, legal representatives, successors and assigns of Debtor.

SIGNATURE VERIFICATION	1	2	3	4
Witness	✓			
Signature Card				
Telephoned Signer				
Good Faith				
OFFICER				

Dated: July 24, 1981

Larry W. Flavelle
DEBTOR

SECRETARY, IF A CORPORATE DEBTOR

Ladonna L. Cross 7/30/81
Comm. Expires 7/14/86

(SEAL)